

28. (New) The plastic molded container of claim 26 wherein immediately below the upper rim the sidewall extends radially inwardly to form a substantially flat gripping surface that extends radially inwardly at an angle below the upper rim before the sidewall extends radially outwardly before extending radially inwardly again as the sidewall downward towards the bottom.

29. (New) The plastic molded container of claim 26 wherein the container is blow-molded from a single layer plastic.

30. (New) The plastic molded container of claim 26 wherein the container is blow-molded from a multi-layer plastic.

REMARKS

In response to the Office Action, dated July 5, 2001, the applicant hereby makes the following response. Original claims 1-23 were submitted in which claims 1, 21, 22 and 23 were independent. Claims 1-23 were subject to a restriction requirement in which claims 1-20 were elected. Accordingly, claims 1-20 are currently pending in the application of which claim 1 is independent. In this response, claim 20 is being cancelled, claims 1, 3, 5, 7, 9 and 15 are being amended and new claims 24-30 are being added in which claim 26 is independent. Applicant submits that no new matter is being added.

Rejection Under 35 U.S.C. § 112

Claim 15 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 15 has now been amended to clarify the invention. Applicant respectfully requests withdrawal of the rejection. Claim 3 has also been amended to clarify the invention.

Rejection Under 35 U.S.C. § 103(a)

Claims 1, 3, 13, 16 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Manca* (U.S. Patent No. D381,561) in view of *Brazis et al.* (U.S. Patent No. 5,203,836). Claims 2, 4-12, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Manca* (U.S. Patent No. D381,561) in view of *Brazis et al.* (U.S. Patent No. 5,203,836) in further view of *Chen* (U.S. Patent No. 5, 549,210). Claims 1 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Manca* (U.S. Patent No. D381,561) in view of *Chen* (U.S. Patent No. 5, 549,210). Claims 1, 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Manca* (U.S. Patent No. D381,561) in view of *Valyi* (U.S. Patent No. 5,939,153). Claims 1, 3, 5, 7, 9 and 15 have been amended to further clarify the invention. Applicant respectfully traverses the rejection and requests withdrawal of same.

The primary reference of *Manca* relates to a design for a clay pot. The *Manca* reference is thus directed toward a specific design to hold spices. In this design, the neck has an opening which is more narrow than the rest of the body of the pot. Accordingly, the opening of the *Manca* reference is not adaptable for a user to easily scoop or dip contents out of the pot.

The *Brazis, et al.* reference relates to a nestable mixing bowl with an integral pour spout and handle (See Column 2. Lines 15-17). The *Brazis, et al.* reference is directed toward solving the problem of nesting different bowls inside another while still utilizing a pour spout for each bowl. The bowls of the *Brazis, et al.* reference do not have bulging sidewalls. Similar, the containers of the *Chen* and *Valyi* references do not have bulging sidewalls. Further, these containers are thermo - molded or injection molded (See attached Declaration and Column 2, line 61 of the *Brazis et al.* reference and Column 4, line 7 of the *Valyi* reference) since bulging sidewalls must be blow molded.

In contrast, the present invention is directed to a blow-molded plastic container with bulging sidewalls. Molded containers, presently known, do not typically have bulging sidewalls since these sidewalls are difficult to extract in an axial direction from the mold because the bulging sides engage against mold portions that correspond to the upper and lower portions of the container body (See specification page 1, lines 10-12). Applicant has determined that because of the blow-molded bowl, this type of container of the present invention can be extracted easily.

Additionally, the blow- molded bowl of the present invention is rigidly configured to withstand hot-fill and retort applications. Other known hot-fill and retort containers are configured to be deformable or include expansion members to accommodate volumetric changes of the contents during the hot-fill or retort applications. Applicant has determined that because of the blow-molded bowl of the present invention, a rigid container without expansion members is achieved.

Applicant respectfully submits that combining the cited references fails to establish a prima facie case of obviousness. To establish a prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art See In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Further, not only must the Examiner find each element of the claimed invention in the prior art, the Examiner must show upon "rigorous application" the proper motivation or suggestion to combine wherein the showing "must be clear and particular" See In re Dembiczak, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 17 (Fed. Cir. 1999). The Applicant respectfully submits that the Examiner's reference by reference, limitation by limitation analysis fails to demonstrate how the *Manca* reference in combination with the other references teach or suggest their combination to yield the claimed invention wherein the claimed invention has a blow molded bowl. Further, the cited references fail to teach or suggest their

combination to yield the claimed invention wherein the claimed invention has a sidewall diameter larger than the height of the bowl. Further, the cited references fail to teach an opening having nearly the same size as the diameter in order for a user to scoop or dip contents out of the bowl. In contrast, the primary reference is never concerned with these issues since the primary reference is designed for storage instead of serving, and, accordingly, do not discuss or enable the same.

The problem solved by the invention is to provide a blow-molded container having bulging sidewalls with an opening nearly the same size as the sidewall diameter. Further, the problem solved by the invention is to provide a blow-molded container having a rigid configuration without incorporating expansion members while withstanding hot-fill and retort applications. Thus, the invention addresses a different problem and proposes a much different solution from the problems and solutions in the art. See, In re Dembiczak, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999)(Evidence of a suggestion, teaching or motivation to combine prior art references may flow, inter alia, from the references themselves, the knowledge of one of ordinary skill in the art, or from the nature of the problem to be solved)(Emphasis added). The cited references are oriented to different problems and propose different solutions. Additionally, nothing in the primary reference suggests that it can be combined with other references to obtain the claimed invention. In particular, the cited references do not suggest or teach a blow molded bowl which can withstand a hot-fill or retort application. Accordingly, the present invention is superior over the references. Further, the cited references do not suggest or teach a container having a diameter larger than the height and an opening nearly the same size as the diameter. Accordingly, since the problems identified are different from the problem solved by the claimed invention, the claimed invention is not obvious.

In order to meet an obviousness requirement, the requirement has to meet some suggestion that the cited references have similar features or structures. To suggest otherwise pertains to an impermissible obvious to try standard. Under 35 U.S.C. § 103, obvious to try is not the standard (See In Re Dow Chem. Co., 837 F.2d 469, 473, 5 U.S.P.Q.2d 1521, 1532 (Fed. Cir. 1988)). The standard, rather, is whether the reference taken as a whole would have suggested the applicant's invention to one of ordinary skill in the acoustical arts at the time the invention was made.

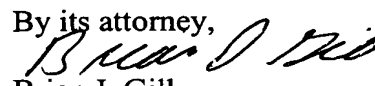
Applicant respectfully submits that since amended claim 1 is patentable, all dependent claims therefrom are also patentable. Applicant further submits that new claims 24-30 represent patentable subject matter.

CONCLUSION

The Applicant respectfully requests withdrawal of the rejection and believes that the claims as presented represent allowable subject matter. However, if the Examiner desires, the Applicant's attorney is ready for a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at 312-876-2578.

Respectfully submitted,

By its attorney,


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Date: 11/5, 2001

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11/5/01 
Date JoEllen Hogan

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:)	
G. Manderfield, Jr.)	
)	
Serial No.: 09/09/543,949)	Examiner: N. Eloshway
)	
Filed: April 6, 2000)	Group Art Unit: 3727
)	
For: MOLDABLE CONTAINER)	
WITH BULGING SIDES AND)	
FEET)	

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In The Claims

1. (Once Amended) A plastic molded container comprising:

a blow-molded bowl comprising an upper rim, a bottom and a sidewall extending between the upper rim and the bottom, the sidewall extending radially outwardly before extending radially inwardly as the sidewall extends downward between the upper rim and the bottom to provide a bulging sidewall.

3. (Once Amended) The plastic molded container of claim 1 wherein immediately below the upper rim the sidewall extends radially inwardly to [from] form a substantially flat gripping surface that extends radially inwardly at an angle below the upper rim before the sidewall extends radially outwardly before extending radially inwardly again as the sidewall downward towards the bottom.

5. (Once Amended) The plastic molded container of claim 4 wherein the three feet comprise[s] a first foot that extends along a radius of the blow-molded bowl as viewed from the

bottom thereof, and a second foot and a third foot which extend in opposite directions and perpendicular to the radius along which the first foot extends.

7. (Once Amended) The plastic molded container of claim 6 wherein the four feet comprise a first pair of feet disposed on one side of a diameter of the blow-molded bowl as viewed from the bottom thereof and a second pair of feet disposed on an opposing side of said diameter from the first feet.

9. (Once Amended) The plastic molded container of claim 6 wherein the four feet comprise a first pair of feet disposed along a diameter of the blow-molded bowl as viewed from the bottom thereof and a second pair of feet disposed on opposing sides of the diameter along which the first pair of feet are disposed.

15. (Once Amended) The plastic molded container of claim [1] 2, wherein each foot is elongated and tapered from a front end facing towards an outer periphery of the blow-molded bowl to a rear end facing towards a central axis of the blow-molded bowl.

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